

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Connecticut Department of Public) **RM- 9258**
Utility Control Petition for Rulemaking) DA 98-743

**COMMENTS OF SPRINT SPECTRUM L.P. D/B/A SPRINT PCS ON THE
PETITION OF THE
CONNECTICUT DEPARTMENT OF PUBLIC UTILITY CONTROL**

Sprint Spectrum L.P. d/b/a Sprint PCS ("Sprint PCS")^{1/} hereby submits its
Comments in response to the Federal Communication Commission's request for public
input in connection with the petition filed by the Connecticut Department of Public
Utility Control ("DPUC"). The DPUC's petition requests that the Commission amend its
rule prohibiting service-specific area code overlays. The DPUC posits that until real
competition exists between the wireless and wireline industries, the anti-competitive
effects of service-specific overlays should be discounted.

Introduction

The Commission's rule against service-specific overlays as established in the
*Ameritech Order*² and further clarified in the *Second Report and Order*,³ prohibits "any

¹ Sprint Spectrum L.P. is a joint venture formed by subsidiaries of Sprint Corporation, Cox Communications, Inc., Tele-Communications, Inc. and Comcast Corporation that provides nationwide wireless services.

² *In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech -Illinois*, Declaratory Ruling and Order, IAD File No. 94-102, 10 FCC Record 4596 (1995) (*Ameritech Order*).

³ *In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by*

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overlay that would segregate only particular types of telecommunications services . . . in discrete area codes because every service-specific or technology specific overlay plan would exclude certain carriers or services from existing area code and segregate them in a new area code.”⁴

Sprint PCS supports the continued application of the *Ameritech Order* to proposed area code overlays and requests, for the reasons stated herein, that the Commission deny the DPUC’s petition. Sprint PCS notes that, since the adoption of the *Ameritech order*, circumstances have not changed to warrant a revision in the Commission’s rules.

Service-specific overlays present only a short-term fix to number exhaustion but fail to address the causes of area code exhaust, in particular, the LEC-based rate center regime. The discriminatory impacts and burdens that service-specific overlays place upon wireless carriers outweigh the short-term relief provided by the proposed solution. The DPUC has not demonstrated that it considered less burdensome alternatives to a service-specific area code overlay. Alternatives such as all-service overlays and rate center consolidation are available measures to exhaustion that deserve attention.

A. Service-specific overlays are merely short-term solutions that fail to address other significant causes of number exhaustion.

The current rate center paradigm to which all carriers are subjected for purposes of number assignment is an inefficient method of managing numbering resources. The

Ameritech –Illinois, Second Report and Order, IAD File no. 94-102, FCC 96-333 (1996) (*Second Report and Order*).

⁴ *Id.* at ¶285.

benefits to be derived from service-specific overlays are short-lived given wireless carriers' frugal use of their numbering resources. In contrast, LECs and CLECs are inefficient users of numbering resources since they are moored in the rate center regime for purposes of number assignment.

1. Wireless carriers use numbering resources more efficiently.

Wireless carriers use numbering resources more efficiently than wireline companies because wireless service areas are not constrained by rate center boundaries. Unlike wireline service providers, wireless carriers do not require 10,000 block NXX assignments from every rate center in the geographic area that it serves. Rather, NXX blocks are assigned out of the rate center with the largest in-bound dial scope based on the wireline paradigm and then distributed to wireless subscribers over a geographic area that may encompass up to 10 or more rate centers.

Therefore, the benefit to be derived from requiring wireless carriers to return their assigned NXXs as a solution to number exhaustion is *de minimis*. Documents filed in a recent unsuccessful proposal to implement a wireless-only overlay in Colorado support this conclusion.⁵ Discovery submitted in the proceeding revealed that under a wireless-only overlay, only 170 codes would be returned to the numbering plan administrator. Given the demand for numbers generated by the CLEC and LEC, it was estimated that the relief derived from the proposed take-back would likely not last more than a year or two.

⁵ See *In the Matter of the Application and Final Recommendation of the Number Plan Administrator for Relief of the 303 Area Code*, , Docket No. 97A-103T, before the Public Utilities Commission of the State of Colorado, Joint Comments of Sprint Spectrum L.P. and Western Wireless Corporation, filed March 26, 1998, (Attached at Exhibit B).

2. LEC and CLEC requirements for numbers do not match the demand for their services.

CLECs are tied to the same rate center regime as the incumbent LECs and, therefore, they believe that they need NXXs to be assigned from every rate center in their market. Yet, given the CLECs relatively small subscriber base, the majority of these numbers are warehoused rather than assigned to subscribers.⁶

Incumbent LECs also engage in number warehousing. In testimony before the Massachusetts Department of Public Utilities, NYNEX admitted that it warehoused approximately 5.5 million numbers in the 617 and 508 area codes giving it 390% more numbers than all of its competitors combined, a surplus that would last almost 10 years.⁷ Not only do LECs have a surplus of unused numbers, but the carriers churn, or reuse, numbers from users who have terminated their service. Churn itself can generate sufficient numbers to meet the ongoing demand.⁸

Warehousing assigned numbers is an anti-competitive practice that harms new entrants particularly when new area codes are introduced.⁹ As the Commission noted in the *Second Report and Order*: “[W]hen an area code overlay is implemented, each provider of telephone exchange service, exchange access, and paging service must be

⁶ See “A Number Allocation Nightmare,” *Telephony*, p.36, April 6, 1998 (“Telephony”); see also Affidavit at ¶5.

⁷ See *In Re the 617/508 Area Code Relief Plan*, D.P.U. 96-61, Sprint Spectrum L.P.’s Initial Brief and Motion to Admit Exhibit, p.9, filed October 21, 1996 (citing testimony of a NYNEX witness who estimated that the carrier had at least 3 million unassigned numbers in the 617 and 508 area codes and estimated that it would take about 10 years to use the 1.5 million numbers it has left in the 508 area code) (Attached at Exhibit C).

⁸ *Id.*

⁹ *Second Report and Order* at ¶289.

assigned at least one NXX in the old NPA.”¹⁰ The competitive advantage enjoyed by incumbent carriers capable of retaining desirable numbers in an NPA is a result that conflicts with the tenets of the 1996 Act and continues to be of concern to new entrants in the current environment.

Wireless carriers and their customers should not be punished for others’ inefficient use of numbering resources. A wireless-only overlay places area code relief on wireless carriers who are the most efficient users of numbers.

B. The discriminatory impacts and burdens that service-specific overlays place upon wireless carriers outweigh any short-term benefit.

The reasons articulated by the Commission for its rejection of service-specific overlays in the *Ameritech Order* are equally valid today:

The ready availability, and use, of numbering resources by communications services providers is essential if the public is to receive the communications services it wants and needs. The timely availability of numbers is essential if new providers are to enter and new services are to appear in the telecommunications marketplace. For example, new wireless service providers and competitive access providers (CAPs) can not offer service without adequate access to new telephone number. Unavailability of numbers, *or an unreasonable allocation of available numbers*, could prevent or discourage consumers from taking new services.¹¹

1. Service-specific overlays create dialing disparities which have anti-competitive impacts upon the segregated carrier.

It is unclear whether the DPUC contemplates that all services will be subject to 10-digit dialing, or if only those subject to the new area code will be required to dial 10-digits to and from their numbers. The distinction is important for, as noted in the *Second Report and Order*, local dialing disparity will occur without mandatory 10-digit dialing

¹⁰ *Id.*

¹¹ *Ameritech Order* at ¶19 (emphasis added).

across all services “because all existing telephone users would remain in the old area code and dial 7-digits to call other with numbers in that area code, while new users with the overlay code would have to dial 10-digits to reach any customers in the old code.”¹² As the Commission noted at that time,

customers would find it less attractive to switch carriers because competing exchange service providers, most of which will be new entrants to the market, would have to assign their customers numbers in the new overlay area code, which would require those customers to dial 10-digits much more often than the incumbent’s customers, and would require people calling the competing exchange service provider’s customer to dial 10-digits when they would only have to dial 7-digits for most of their other calls.¹³

Placing wireless carriers in a separate category that requires 10-digit dialing to and from its numbers will put them at a competitive disadvantage to the incumbent carriers whose subscribers will not be subject to the same dialing requirements.¹⁴

2. Service-specific overlays unduly burden wireless carriers and their subscribers.

The entire burden of area code relief is placed upon wireless carriers and their customers in a service-specific overlay scenario. Service-specific overlays requiring the “take-back” of issued numbers are costly propositions for those responsible for implementation. New NXXs must be loaded in the handset and issued to each subscriber at an approximate cost of \$20-25.00 per unit.¹⁵ The administrative and technical burden of reprogramming every phone is costly to the carrier and inconvenient to the subscriber who must surrender her number, endure the inconvenience of reprogramming, and pay

¹² *Second Report and Order* at ¶287.

¹³ *Id.*

¹⁴ Affidavit of Scott Ludwikowski at ¶2 (attached at exhibit A).

¹⁵ Affidavit at ¶1.

for the costs of reprinting stationary and business cards. Meanwhile, the wireline customer would escape the effects of the overlay altogether. The Commission has historically required that solutions to number exhaustion strike an optimal balance to assure that any burden falls evenly upon all carriers and customers.¹⁶ There is no reason to abandon this requirement at this time.

C. Connecticut has failed to present any evidence in the record that they have considered other alternatives

The record in the Connecticut proceeding is devoid of any evidence that the DPUC considered less burdensome alternatives to service-specific overlays. Yet, rate center consolidation and all-service overlays certainly deserve attention in light of the discriminatory effects of the DPUC's proposed plan.

1. Rate center consolidation is a logical and prudent alternative to service-specific overlay.

Rate center consolidation involves reducing the number of rate centers that serve a geographic area by collapsing or combining existing rate centers.¹⁷ Current call-routing and call-rating methods are preserved and the burdens of implementation are fairly distributed among the affected service providers.¹⁸ Since the existing rate center structure is, in large part, responsible for the inefficient use of numbers by LECs and CLECs,

¹⁶ *Ameritech Order* at ¶35.

¹⁷ See "Short-term Technical Alternatives to NXX Exhaust," Carrier Liason Committee Report to the NANC, p.3, Sept. 2, 1997. ("CLC Report").

¹⁸ *Telephony* at p. 37.

consolidation is a logical solution to number exhaustion that will have long-term benefits to number utilization.¹⁹

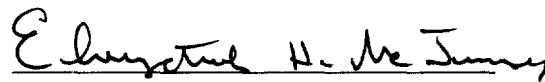
2. An all-service overlay is an immediate solution to jeopardy that does not involve the same discriminatory impacts as service-specific overlays.

An all-services NPA overlay provides immediate relief from number exhaustion by opening up a new NPA code within the same geographic area as the NPA facing depletion.²⁰ NXXs from the new NPA are available for assignment to all carriers equally and all affected parties, including customers, bear the same burdens regardless of the type of service involved. The issues of segregation, take-back and exclusion and their discriminatory effects are not present in the all-services overlay and, therefore, it presents a more balanced solution to number exhaustion and jeopardy.

Conclusion

Accordingly, for the reasons stated herein, Sprint PCS urges the Commission to deny the DPUC's petition seeking a review of the rules prohibiting service-specific area code overlay and to continue to apply the rules announced in the *Ameritech Order* and the *Second Report and Order* with respect to proposed solutions to number exhaustion.

Respectfully submitted,



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¹⁹ *Id.* at p. 6, (noting that rate center consolidation will allow for more efficient utilization of numbers from existing and future assigned NXXs, and as a conservation measure, it will prevent future jeopardy situations).

²⁰ *Id.* at p.7.

EXHIBIT A

AFFIDAVIT

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

Before me, the undersigned, a Notary Public, personally appeared Scott M. Ludwikowski,
who being duly sworn according to law, states the following to be true and correct:

1. I am Senior Network Engineer - Telephone Number Administration for Sprint Spectrum L.P. d/b/a Sprint PCS, a business located at 4900 Main, Kansas City, Missouri.

2. A wireless overlay serves only to hinder competition and harm wireless service providers. When wireless carriers are forced to give back codes already assigned to them, the wireless carrier has to assume the majority of the costs associated with the implementation of the overlay. With code takeback, every wireless phone which has been programmed with a NPA-NXX code from the incumbent NPA, will have to be reprogrammed. Sprint Spectrum estimates that the cost associated with the reprogramming of handset is between \$20-25 per handset.

3. Another anticompetitive effect of the service specific overlay is the lack of dialing parity. Wireline to wireline calls will be able to be dialed with seven digits while all calls to wireless will require dialing 10 digits. A solution does exist for this disparity, 10 digit universal dialing.

4. The segregation of wireless in a separate area code also will let callers know they are dialing a wireless number and some wireless customers may not wish for the caller to know that they are using a wireless phone.

5. The Connecticut DPUC states that there is little competition between wireline and wireless. We feel that there is competition and that competition is in call substitutability. In

Affidavit of Scott M. Ludwikowski
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certain call scenarios it may cost a consumer less to make a call on their wireless phone than on wireline phones. Wireless service providers typically have outbound calling areas which are larger than landline providers. Furthermore, it may be too soon to say there is no competition since wireless carriers are beginning to provide wireless local loops. Wireless local loops will compete directly with wireline services.

6. The imposition of a wireless overlay does not address one of the main causes of NXX exhaust, the competitive local exchange market. New entrants into the local exchange market secure an NXX code in every rate center where they plan to offer service. This leads to an inefficient use of numbers since those competitors have few customers in any particular NXX code. Connecticut has already taken steps to consolidate rate centers and those efforts should be continued. Additional, number pooling will also help to alleviate problems with NXX exhaust by satisfying carriers numbering demands with blocks of numbers less than 10,000.

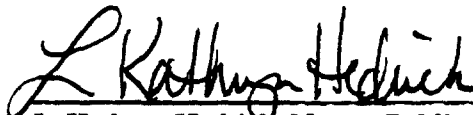


Scott M. Ludwikowski
Senior Network Engineer
Telephone Numbering Administration
Sprint Spectrum L.P.

Sworn to and subscribed before me this 7th day of May, 1998.

My Commission Expires:

L. KATHRYN HEDRICK - Notary Public
Clay County State of Missouri
My Commission Expires Dec. 28, 2001



L. Kathryn Hedrick, Notary Public
Commissioned in Clay County, Missouri

EXHIBIT B**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO**

In the Matter of The Application)	
and Final Recommendation of the)	
Numbering Plan Administrator For)	Docket No. 97A-103T
Relief of the 303 Area Code)	

**JOINT COMMENTS OF SPRINT PCS AND
WESTERN WIRELESS CORPORATION**

Pursuant to Decision C98-115 of the Colorado Public Utilities Commission (the "Commission"), dated February 3, 1998, Sprint Spectrum L.P. dba Sprint PCS ("Sprint PCS") and Western Wireless Corporation ("Western") hereby submit their Joint Comments in the above-described proceeding. As noted in the Joint Trial Data Certificate of Sprint PCS and Western, each of these two companies will provide a witness to address the issues in this docket in greater detail.

I. Factual, Legal and Policy Background.

For many months, this Commission has been addressing the complex and interrelated issues raised by the now well established public policy to encourage and promote competition in the provision telecommunications services. This fundamental change in policy away from defending monopoly providers of telecommunications services is of course embodied both in recent changes to Colorado's telecommunications statutes (commonly referred to as "HB 1335") and in federal statutes, primarily the

Telecommunications Act of 1996 (the "1996 Act").¹ These statutes require this Commission to play an important role in eliminating barriers to genuine competition and requiring equal access to critical functions and resources necessary for the provision of telecommunications services. In fulfilling this role, the Commission has carefully studied ways to provide competitively neutral access to resources such as unbundled network elements, rights of way, collocation, number portability, operational support systems and the like.

In its consideration of issues in the instant docket, it is important for the Commission to recognize that this proceeding concerns yet *another* of those telecommunication functions or resources critical to competition: telephone numbering resources. Access to telephone numbering resources is vital because these numbers are the means by which telecommunications users gain access to and benefit from the public switched telephone network. The 1996 Act recognizes that ensuring fair and impartial access to numbering resources is a critical component of encouraging that Act's purpose of achieving genuinely competitive telecommunications markets.

The 1996 Act contains several provisions which embody the national policy regarding nondiscriminatory access to telephone numbering resources. For example, Section 251(e)(1) mandates the designation of an impartial administrator of the North American Numbering Plan ("NANP") "to make such numbers available on an equitable basis." Traditionally, this function has been carried out by Bellcore nationally and, within

¹Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, *codified at* 47 U.S.C. Sections 151 *et. seq.*

each geographic areas, the predominant local exchange carrier (here U S West) has served as administrator and assigned telephone numbers to itself and its competitors.²

In addition, Section 202(a) of the 1996 Act prohibits carriers from unjustly or unreasonably discriminating in their "practices, classifications, regulations, facilities, or services for or in connection with like communication service." This provision of the 1996 Act plainly must be applied by the Commission in evaluating an area code relief plan. In its assignment and provision of central office codes, U S West provides an essential communication service to carriers providing both wireline and wireless telecommunications services. In the wireless-specific overlay plan, customers of wireless and wireline carriers will admittedly be treated very differently:

(1) carriers offering wireless services and their customers would be admittedly *excluded* from area code 303 while wireline carriers will not be;

(2) wireless providers—and only wireless providers—would be required to force their customers to return to U S West all their previously assigned area code 303 numbers; wireline carriers will not be required to have U S West *take back* assigned 303 numbers from their customers;

(3) wireless providers and customers—but not wireline customers and providers—will be *segregated* only in the new area code ~~702~~⁷²⁰; wireline customers will not be so segregated;

²Telephone numbers have three parts: a three digit numbering plan area (NPA) code (or area code); a three-digit central office (CO) code or NXX or NNX; and a four-digit line number.

(4) wireless customers—but not wireline service customers—would be required to have their equipment reprogrammed, their business letterhead and cards re-printed, their time spent in bringing telephone sets to dealers; on the other hand, wireline service customers would have none of those costs, terms and conditions applied to them.

These admitted disparate burdens on customers of wireless telecommunications service, also must be examined pursuant to the 1996 Act's Section 201(b) requirement that all common carrier "practices, classifications, and regulations for and in connection with . . . communications service . . . be just and reasonable." The comments below explain why the wireless-only overlay plan in fact creates unjust and unreasonable burdens and disadvantages on wireless service providers.

Sprint PCS and Western are aware that the Commission does not wish commentators to belabor legal issues here or in oral testimony. The Commission stated that it is fully aware of the rulings of the FCC with regard to a wireless-only overlay. It is important, however, that the record reflect that adoption of a wireless-only overlay plan as being considered here, would be directly contrary to clear rulings by the FCC. In the *Ameritech Order*³ and the *Second Report and Order* in CC Docket No. 96-98,⁴ the FCC concluded that a wireless only overlay plan unreasonably discriminated against wireless carriers by assigning telephone numbers (provision of central office codes) in an existing

³*In the Matter of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois*, IAD File No. 94-102, Declaratory Ruling Order, 10 FCC Red 4596 (1995).

⁴*In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, FCC 96-333 (Rel'd August 8, 1996)

area code only to wireline carriers while excluding wireless carriers. The FCC concluded this violated Section 202(a) of the Communications Act of 1934 which prohibits carriers from unjustly or unreasonably discriminating in their "practices, classifications, regulations, facilities, or services for or in connection with like communication service". Furthermore, because the wireless-only overlay plan was found to impose significant competitive disadvantages on wireless carriers, while giving certain advantages to wireline carriers, the FCC found the proposal violated Section 201(b) of the Act which requires that all common carrier "practices, classifications, and regulations for and in connection with....communications service..... be just and reasonable."

The FCC also found that the wireless-only overlay violated federal policy objectives for the NANP and the 1996 Act's general purposes of promoting competitive markets and not unreasonably burdening particular technologies or segments of the telecommunications industry. As a result, the FCC adopted rules which expressly prohibit the use of service-specific overlays: "No group of telecommunications carriers shall be excluded from assignment of central office codes in the existing area code, or be assigned such codes only from the overlay code, based solely on that group's provision of a specific type of telecommunications service or use of a particular technology." 47 CFR Section 52.19(c)(3)(I). If the Commission were to wish to adopt a wireless-only overlay, existing law would require it to seek a waiver from the FCC. This, of course, would further delay implementation of a lawful plan in Colorado, aggravating rather than relieving, the threat of exhaust of area code 303.

Finally, this Commission must also compare the impact on wireless customers to the overall purposes of the 1996 Act and HB 1335 which is to foster and promote the development of competitive markets. As will be described below, the wireless-only overlay plan would likely hinder the growth and provision of new beneficial services to consumers, not stimulate them. And it would do so with little if any gain in delayed time for exhausting area code 303 or any other offsetting benefit.

When the Commission applies these above provisions of the 1996 Act to various proposals for changing the overlay plan already adopted, several central principles emerge if any particular numbering plan is to satisfy the 1996 Act. First, any numbering allocation plan must facilitate entry into the telecommunications marketplace in Colorado by making numbering resources available on an efficient and timely basis. Second, any numbering administration must not unduly favor or disadvantage any particular industry segment or group of customers. Third, numbering plans must not unduly favor one technology over another. These are reasonable policies which the Commission must adopt and apply to this proceeding. A wireless-only overlay plan does not meet these non-discriminatory policies and directives.

II. The Commission Has Already Adopted a Fair, Reasonable and Lawful Relief Plan for the 303 Area Code in Colorado.

In Decision Nos. C97-761 and C97-901, the Commission has adopted a plan for area code relief similar to others which have been tested and are in effect in several other states to date. The all services overlay plan is fair in that no service or technology is placed at a competitive disadvantage and the costs to implement the plan are incurred among *all*

providers of telecommunications services in Colorado.

III. Any Revised Plan for Area Code Relief Which Targets a Specific Service or Technology Places an Unfair Burden on Providers and Customers of That Service.

An overlay plan that requires only certain service providers and their customers to bear the entire burden of technical, operational, and service modifications is patently unfair and penalizes customers who choose to purchase a particular telecommunications service. A service specific overlay plan is not in the public interest because the cost of technical and equipment changes, as well as the additional dialing requirements, place that service at a competitive disadvantage and therefore reduces choice among consumers in Colorado. Joint Commentors have provided Staff with estimates of their costs associated with a service specific overlay. Sprint's Responses to the Discovery Requests of Staff (with Supplements) are incorporated herein by reference.

IV. A Wireless-Only Overlay Cannot be Implemented in Time to Provide Area Code Relief and Would Create Substantial Additional Customer Confusion in Colorado.

Even assuming for the sake of argument that a wireless-only overlay requiring exclusion, take-back, and segregation, did not unreasonably burden a single technology without justification, it cannot be implemented by the date of projected exhaust. This fact is of course critical. It is doubtful that any wireless overlay can be implemented in time to obtain any meaningful delay in the date of exhaust for area 303. In any event, there are other plans that do not have unreasonable discriminatory impacts that can better meet the need for additional numbering resources.

In addition, compressing the time to implement a wireless-only overlay would create even more customer confusion than currently exists and increase the likelihood of errors and disruption. Sprint PCS and Western have already invested significant resources in developing and delivering customer education material about the already adopted Commission overlay plan. These wireless companies have also relied upon and used the educational efforts of U S West. If the Commission were to change course and adopt a wireless-only overlay, this education effort would be disrupted further. This would cost wireless carriers even more money and even more importantly, would make widespread customer understanding of the overlay process virtually impossible to obtain.

V. Cost Recovery Cannot Compensate Fully for and Does Not Eliminate the Competitive Disadvantages Imposed on Wireless Carriers.

The Commission seeks evidence on whether the cost of reprogramming should be borne by all end users of telecommunications devices with a telephone number. Joint Commentors oppose a service specific overlay because it places that service at a competitive disadvantage. Requiring other users of other services to bear part of the cost of reprogramming does not fully compensate for and does not eliminate the competitive disadvantages. Wireless carriers will almost inevitably lose some existing customers under a wireless-only overlay, and in addition cost recovery does not solve problems of dialing disparity and allowing wireline carriers to retain the valuable original NPA-NXXs, nor does it compensate wireless customers for the costs and burdens imposed on them by a wireless-only overlay.

VI. Wireless Carriers Use Numbering Resources More Efficiently than Wireline Carriers.

Wireless carriers use numbering resources efficiently. Wireless carriers, particularly new market entrants like the Joint Commentors, typically have a far smaller number of NXX codes assigned to them than wireline carriers, because they can serve a broader geographic area with an NXX block than wireline carriers can. Since they are not tied to the rate center scheme in the same way as wireline carriers, wireless carriers like the Joint Commentors typically have dramatically higher fill rates for the NXXs assigned to them than do wireline carriers.

VII. A Wireless-Only Overlay and Take-Back Would Not Provide Significant Relief for the 303 Area Code.

Even assuming for the sake of argument that a wireless-only overlay requiring exclusion, take-back, and segregation, were not unreasonably discriminatory and anti-consumer, it would not provide significant relief for the 303 area code, because wireless carriers are efficient users of numbering resources and therefore the number of NXX codes that would be taken back is relatively low. Some of the data submitted in this proceeding regarding the nature of the exhaust problem and the relative contribution to the problem by wireline and wireless carriers has been presented in a misleading manner.

First, it is an elementary principle of statistics that percentages can be very misleading. The percentage growth of wireless carriers ordering of numbers is skewed artificially high by the small absolute numbers involved compared to the much larger base of wireline numbers. See for example, Staff's Responses to AT&T Wireless' First Set of Discovery Requests to Staff. Staff's attachment to its Response, AT&T-1, #5, p. 1, shows

an increase from 437 to 445 assigned codes for a "Large ILEC" from 12/1/97 to 3/1/98. An increase of 8 codes is only a 2% growth rate for that first Quarter. Staff's attachment shows an increase from 18 to 21 assigned codes for "PCS" from 12/1/97 to 3/1/98. An increase of only 3 codes is a 17% growth rate for that first Quarter. Moreover, Staff's Response ATT-1, #5, p. 1, masks where the real demand for CO codes is coming from. Namely, from CLECs. Staff lumps together Large ILECs, Small ILECs, and CLECs in projecting annual growth rate and exhaust. But, the Large ILEC has hundreds of CO codes, thus making the growth rate appear smaller for all wireline carriers. A careful inspection of Staff's Response ATT-1, #5, p. 1, shows that the real demand for numbers is from CLECs. For the period 12/1/97 to 3/1/98 CLEC code assignments went from 76 to 107, an increase of 41 codes (which is also a 42% growth rate for that Quarter).

Second, some of the data submitted is not timely, and some is misleading regarding future trends. Data only from 1997 does not represent likely growth in the second quarter of 1998 because very few CLEC's were operating at all in Colorado because of on-going litigation regarding interconnection agreements, disputes over OSS issues and the like. The Code Administrator's response to AT&T Wireless' discovery response ATT 01-002, for example, appears to only show codes assigned through 1/1/98.

Under a wireless-only overlay, only 170 codes would be returned. Given the very high CLEC demand (e.g., already 41 new codes in just the First Quarter 1998), plus the fact that CLEC growth has been suppressed because of on-going litigation regarding interconnection agreements (and there may also be CLECs that are certified by the state, but have not yet requested codes), the 170 returned codes would not provide significant

area code relief. Staff's Response, ATT-1, #5, p. 1 shows an 8% growth rate for all LECs and CLECs for the First Quarter 1998 (which is a more conservative estimate than using the 42% CLEC growth). That's an annual 36% growth rate for 1998, and at that rate, 170 codes would be used up in less than a year by all wireline carriers. If the annual growth rate were half that, the 170 codes wouldn't even last two years.

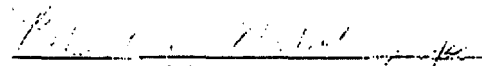
Sprint PCS and Western respectfully urge the Commission not to adopt the proposed wireless-only overlay for all of the sound policy and legal reasons cited above and in the comments and oral testimony of parties to this proceeding.

Dated: March 26, 1998

Respectfully submitted:

WESTERN WIRELESS CORPORATION
and
SPRINT SPECTRUM L.P. DBA SPRINT PCS

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Their Attorneys.

CERTIFICATE OF SERVICE

I certify that the original and five true and correct copies of the foregoing Joint Comments of Sprint PCS and Western Wireless was hand delivered on March 27, 1998, addressed as follows:

Bruce N. Smith
Director
Colorado Public Utilities Commission
1580 Logan St., OL-2
Denver, CO 80203

and that a copy will also be hand delivered on March 27, 1998, to the following:

Bruce Armstrong
Robert Bergman
Vivian Pederson
Jim Richards
Frank Shafer
Robert Skinner
Vinson Snowberger
Morey Wolfson
Michael Zimmerman
Public Utilities Commission
1580 Logan St., OL-2
Denver, CO 80203

I further certify that a copy was placed in the U.S. Mail, postage prepaid on March 26, 1998, addressed as follows:

Eugene C. Cavaliere
Senior Asst. Attorney General
Regulatory Law Section
1525 Sherman St., 5th Floor
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